

fu

RECEIVED

AUG 30 2007

PUBLIC SERVICE COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION OF THE)
APPLICATION OF THE FUEL)
ADJUSTMENT CLAUSE OF AMERICAN) CASE NO. 2006-00507
ELECTRIC POWER COMPANY FROM)
NOVEMBER 1, 2004 TO OCTOBER 31, 2006)

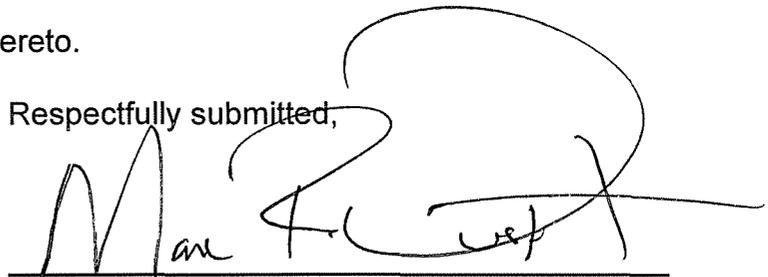
* * * * *

**Notice of Substitution of Filing of Substitute Page 5
To Correct Clerical Error**

Please take notice that Kentucky Power hereby files with the Public Service Commission of Kentucky a substitute page 5 to its brief filed on August 29, 2007. The substitute page corrects the misidentification as the result of a clerical error of the Attorney General as the Commission.

The substitute page is attached hereto.

Respectfully submitted,



Mark R. Overstreet
STITES & HARBISON PLLC
421 West Main Street
P. O. Box 634
Frankfort, Kentucky 40602-0634
Telephone: (502) 223-3477

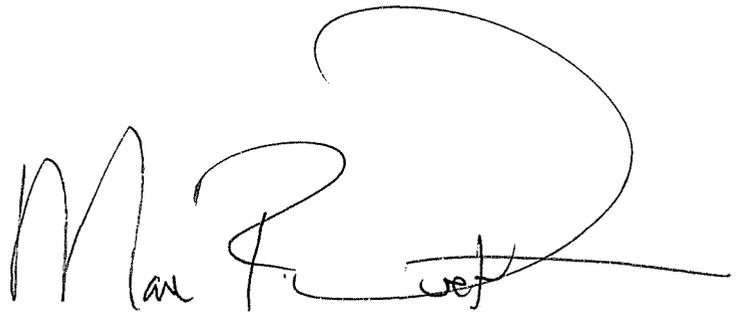
COUNSEL FOR KENTUCKY POWER
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by first class mail, postage prepaid, upon the following parties of record, this 30th day of August, 2007.

Michael L. Kurtz
Boehm, Kurtz & Lowry
2110 CBLD Center
36 East Seventh Street
Cincinnati, OH 45202

Dennis G. Howard II
Larry Cook
Assistant Attorney General
Office for Rate Intervention
P. O. Box 2000
Frankfort, KY 40602-2000

A handwritten signature in black ink, appearing to read "Mark R. Overstreet", written over a horizontal line. The signature is stylized and cursive.

Mark R. Overstreet

Attorney General of the regulation that was promulgated by the Commission as a result of the proceedings in Case No. 6877. In fact, in that case the Attorney General urged the Commission to provide for a “purchase power adjustment clause” that would impose a surcharge or surcredit with respect to the varying cost of a utility’s purchased power.²¹ That is, the Attorney General urged the Commission to promulgate a regulation permitting utilities to impose a surcharge that would adjust the rates paid by consumers between general rate cases based upon changes in a single expense and without reference to the utility’s other revenues and costs – the very thing the Attorney General now contends the Commission lacks the authority to do absent a specific statutory authority.

Even more telling is that the Attorney General promoted his own fuel adjustment clause in Case No. 6877.²² Although it differed from the regulation ultimately adopted by the Commission, the clause advanced by the Attorney General allowed utilities to adjust their rates based upon variations in a single expense, fuel, outside the context of a general rate case. Clearly, as early as the late 1970’s the Attorney General understood the Commission’s authority under Chapter 278, which has not been changed in any relevant fashion since then, to include the promulgation of regulations permitting utilities to adjust their rates between general rate cases based upon variations in a single expense.

²¹ Order, *In the Matter of Kentucky Power Company, East Kentucky Power Cooperative, Louisville Gas and Electric Company, Kentucky Utilities Company and Big Rivers Electric Corporation*, P.S.C. Case No. 6877 at 10 (December 15, 1977).

²² See, Office of the Attorney General Proposed Regulation, *In the Matter of: The Examination of the Fuel Adjustment Tariff Provisions Kentucky Power Company, East Kentucky Power Cooperative, Louisville Gas and Electric Company, Kentucky Utilities Company and Big Rivers Electric Corporation*, P.S.C. Case No. 6877 (Exhibit 7).